

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No.14327 OF 2004

Between:

Lt.Col.Yousuf Ali Mirza

..... PETITIONER

AND

The District Collector,
Hyderabad District,
Hyderabad, and others.

...RESPONDENTS

**THE HONOURABLE SRI JUSTICE
P.S.NARAYANA**

WRIT PETITION NO.14327 OF 2004

ORDER

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Heard the counsel on record.

At the request of the counsel representing the respective parties, the writ petition is being disposed of finally, though the matter is appearing in the caption 'interlocutory'.

The writ petition is filed for a writ of Mandamus directing the respondents to forthwith initiate land acquisition proceedings and award compensation in respect of petitioner's land admeasuring 92.20 square yards which is part and parcel of house bearing No.10-3-274/B situated at Sarojini Devi Eye Hospital Main Road, Humayunnagar, Hyderabad, which was affected under road widening scheme from NMDC to Sarojini Devi Eye Hospital Road, and pass such other suitable orders.

It is stated that the petitioner, who is a senior citizen aged about 83 years, is the absolute owner of the house bearing Municipal No. 10-3-274/B situated at Sarojini Devi Eye Hospital Main Road, Hyderabad. He is a retired officer of Indian Army and wholly dependant upon the rents from the above said building, for his livelihood. It is also stated by the petitioner that the third respondent Corporation under the road widening scheme from NMDC to Sarojini Devi Eye Hospital, has acquired 10 feet

depth and 83 feet width, totally admeasuring 92.20 square yards of the front portion of the house bearing No.10-3-274/B without serving any prior notice to the writ petitioner. It is also stated that no procedure was followed as contemplated under law. The respondents had not initiated any proceedings under the Land Acquisition Act, inspite of acquiring the land of an extent of 92.20 square yards for the said road widening scheme. The said road widening is from NMDC to Sarojini Devi Eye Hospital, which was effected in the year 2000, due to which the whole building of the petitioner has got affected, and therefore, the rental value of the building was diminished drastically and thereby his monthly income was affected. It is also stated that the petitioner has been approaching the third respondent-Corporation seeking compensation for the affected land vide numerous representations including the letters dated 15.05.2000 and 28.06.2000. It is also stated that the petitioner has been frequently requesting the respondents to initiate land acquisition proceedings and pay compensation for the land. The second respondent addressed a letter to the Chief City Planner, Municipal Corporation of Hyderabad vide his letter dated 05.12.2003 to examine the plea of the petitioner and take necessary action. It is stated by the petitioner that he also addressed a letter dated 15.01.2004 to the third respondent and the Chief City Planner, with a request to take immediate action, but all these attempts proved to be invain. It is further stated by the petitioner that for the neighbouring house properties, which were affected in the said road widening, the respondents, in fact, initiated land acquisition proceedings and an award was made, the details relating thereto had been furnished in para-5 of the affidavit filed in support of the petition.

Counter-affidavit is filed by Respondent No.2, wherein a stand was taken that no request proposal was received from Municipal Corporation of Hyderabad for acquisition of land in premises No.10-3-274/B situated at Humayun Nagar, Hyderabad, and hence land acquisition proceedings were not initiated. It is also further stated in para-4 of the counter-affidavit that the Assistant City Planner, Circle-IV, MCH, Hyderabad, sent requisition for acquisition of land to an extent of 101.83 sq. yds. in premises No.10-3-274,

Humayun Nagar, Hyderabad along with other properties for the purpose of road widening from NMDC to Sarojini Devi Eye Hospital vide letter No.351/TP/C4/MCH/2003-129, dated 25.04.2003. It is also stated that the requisition for the subject property in premises No.10-3-274/B is not there in the requisitions received. It is also stated that on receipt of the requisition, land acquisition proceedings were initiated and finally an award vide B/311/2000, dated 27.12.2003 was passed for acquisition of land in Premises No.120-3-274, Humayun Nagar, Hyderabad. It is also specifically stated in the counter that a representation dated 07.11.2003 was submitted by the petitioner to the 2nd respondent - office for payment of compensation in respect of land to an extent of 92.74 sq. yds. bearing premises No.10-3-274/B taken over by MCH. It is also stated that as no requisition for acquisition of premises No.10-3-274/B belonging to the petitioner was received, his representation dated 07.11.2003 was forwarded to the Chief City Planner, Hyderabad, for necessary action vide letter No.B/699/2003, dated 05.12.2003.

As can be seen from the respective pleadings of the parties, it appears to be a case where though a portion of the premises of the writ petitioner was lost in the road widening, but by virtue of the fact that the same was not specified, the land acquisition proceedings had not been initiated. But it is stated that the portion of the property of the writ petitioner had also been demolished. It is also pertinent to note that the petitioner is not only a senior citizen, but a responsible citizen.

As can be seen from different facts, which had been narrated in the affidavit filed in support of the writ petition and also the stand taken by the second respondent in the counter-affidavit that the petitioner submitted a representation dated 07.11.2003 for payment of compensation, but however, due to the misfortune of the petitioner, nothing fruitful had been done in this regard. Further, a specific stand is taken by the second respondent that the representation of the petitioner dated 07.11.2003 was forwarded to the Chief City Planner, Hyderabad, for necessary action vide letter No.B/699/2003,

dated 05.12.2003. Though there is sufficient lapse of time, there appears to be total inaction on the part of the respondents in further probing or enquiring into the matter and taking an appropriate decision in this regard. It is needless to say that the 3rd respondent shall duly consider the various representations already made by the writ petitioner, inclusive of the representation dated 07.11.2003, which is said to have been forwarded to the Chief City Planner, Hyderabad, for necessary action, vide letter No.B/699/2003 and take immediate action within a period of four weeks from the date of receipt of a copy of this order.

The writ petition is accordingly allowed to the extent indicated above.
No order as to costs.

JUSTICE P.S.NARAYANA

16th NOVEMBER, 2006
PGS

THE HONOURABLE SRI JUSTICE
P.S.NARAYANA

WRIT PETITION NO.14327 OF 2004

16th NOVEMBER, 2006